

3666

2013-2014 Regular Sessions

I N   A S S E M B L Y

January 28, 2013

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Introduced by M. of A. LENTOL -- read once and referred to the Committee  
on Judiciary

AN ACT to amend the real property law, in relation to requiring the  
owner or landlord of a property to disclose whether property has ever  
been used as a methamphetamine lab before such property is sold or  
leased

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 240 of the real property law is amended by adding a  
2     new subdivision 5 to read as follows:  
3     5. THE TERM "CONTAMINATED" AS USED IN THIS ARTICLE MEANS THAT A PROP-  
4     ERTY IS POLLUTED BY HAZARDOUS MATERIALS AS A RESULT OF THE USE,  
5     PRODUCTION, OR PRESENCE OF METHAMPHETAMINE.  
6     S 2. The real property law is amended by adding a new section 231-a to  
7     read as follows:  
8     S 231-A. DISCLOSURE OF METHAMPHETAMINE CONTAMINATED PROPERTY. 1. THE  
9     TERM "CONTAMINATED" AS USED IN THIS SECTION MEANS THAT A PROPERTY IS  
10    POLLUTED BY HAZARDOUS MATERIALS AS A RESULT OF THE USE, PRODUCTION, OR  
11    PRESENCE OF METHAMPHETAMINE.  
12    2. IF A LESSOR OFFERING TO RENT REAL PROPERTY HAS ACTUAL KNOWLEDGE  
13    THAT THE PROPERTY IS OR HAS EVER BEEN CONTAMINATED FROM THE USE, STOR-  
14    AGE, OR MANUFACTURE OF METHAMPHETAMINES, THE LESSOR SHALL INFORM ANY  
15    POTENTIAL LESSEE OF THE EXISTENCE OF SUCH CONTAMINATION PRIOR TO ENTER-  
16    ING INTO A CONTRACT FOR THE LEASE OF SUCH PROPERTY.  
17    S 3. Section 242 of the real property law is amended by adding a new  
18    subdivision 5 to read as follows:  
19    5. ANY PERSON, FIRM, COMPANY, PARTNERSHIP OR CORPORATION OFFERING TO  
20    SELL REAL PROPERTY HAS ACTUAL KNOWLEDGE THAT THE PROPERTY IS OR HAS EVER  
21    BEEN CONTAMINATED FROM THE USE, STORAGE, OR MANUFACTURE OF METHAMPHETA-  
22    MINES, THE OWNER SHALL INFORM ANY PURCHASER OF THE EXISTENCE OF SUCH  
23    CONTAMINATION PRIOR TO ENTERING INTO A CONTRACT FOR THE SALE/PURCHASE OF  
24    SUCH PROPERTY.  
25    S 4. Subdivision 2 of section 462 of the real property law, as added  
26    by chapter 456 of the laws of 2001, is amended to read as follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD04636-01-3

2. The following shall be the disclosure form:

PROPERTY CONDITION DISCLOSURE STATEMENT

NAME OF SELLER OR SELLERS:

PROPERTY ADDRESS:

THE PROPERTY CONDITION DISCLOSURE ACT REQUIRES THE SELLER OF RESIDENTIAL REAL PROPERTY TO CAUSE THIS DISCLOSURE STATEMENT OR A COPY THEREOF TO BE DELIVERED TO A BUYER OR BUYER'S AGENT PRIOR TO THE SIGNING BY THE BUYER OF A BINDING CONTRACT OF SALE.

PURPOSE OF STATEMENT: THIS IS A STATEMENT OF CERTAIN CONDITIONS AND INFORMATION CONCERNING THE PROPERTY KNOWN TO THE SELLER. THIS DISCLOSURE STATEMENT IS NOT A WARRANTY OF ANY KIND BY THE SELLER OR BY ANY AGENT REPRESENTING THE SELLER IN THIS TRANSACTION. IT IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR TESTS AND THE BUYER IS ENCOURAGED TO OBTAIN HIS OR HER OWN INDEPENDENT PROFESSIONAL INSPECTIONS AND ENVIRONMENTAL TESTS AND ALSO IS ENCOURAGED TO CHECK PUBLIC RECORDS PERTAINING TO THE PROPERTY.

A KNOWINGLY FALSE OR INCOMPLETE STATEMENT BY THE SELLER ON THIS FORM MAY SUBJECT THE SELLER TO CLAIMS BY THE BUYER PRIOR TO OR AFTER THE TRANSFER OF TITLE. IN THE EVENT A SELLER FAILS TO PERFORM THE DUTY PRESCRIBED IN THIS ARTICLE TO DELIVER A DISCLOSURE STATEMENT PRIOR TO THE SIGNING BY THE BUYER OF A BINDING CONTRACT OF SALE, THE BUYER SHALL RECEIVE UPON THE TRANSFER OF TITLE A CREDIT OF FIVE HUNDRED DOLLARS AGAINST THE AGREED UPON PURCHASE PRICE OF THE RESIDENTIAL REAL PROPERTY.

"RESIDENTIAL REAL PROPERTY" MEANS REAL PROPERTY IMPROVED BY A ONE TO FOUR FAMILY DWELLING USED OR OCCUPIED, OR INTENDED TO BE USED OR OCCUPIED, WHOLLY OR PARTLY, AS THE HOME OR RESIDENCE OF ONE OR MORE PERSONS, BUT SHALL NOT REFER TO (A) UNIMPROVED REAL PROPERTY UPON WHICH SUCH DWELLINGS ARE TO BE CONSTRUCTED OR (B) CONDOMINIUM UNITS OR COOPERATIVE APARTMENTS OR (C) PROPERTY ON A HOMEOWNERS' ASSOCIATION THAT IS NOT OWNED IN FEE SIMPLE BY THE SELLER.

INSTRUCTIONS TO THE SELLER:

(a) ANSWER ALL QUESTIONS BASED UPON YOUR ACTUAL KNOWLEDGE.

(b) ATTACH ADDITIONAL PAGES WITH YOUR SIGNATURE IF ADDITIONAL SPACE IS REQUIRED.

(c) COMPLETE THIS FORM YOURSELF.

(d) IF SOME ITEMS DO NOT APPLY TO YOUR PROPERTY, CHECK "NA" (NON-APPLICABLE). IF YOU DO NOT KNOW THE ANSWER CHECK "UNKN" (UNKNOWN).

SELLER'S STATEMENT: THE SELLER MAKES THE FOLLOWING REPRESENTATIONS TO THE BUYER BASED UPON THE SELLER'S ACTUAL KNOWLEDGE AT THE TIME OF SIGNING THIS DOCUMENT. THE SELLER AUTHORIZES HIS OR HER AGENT, IF ANY, TO PROVIDE A COPY OF THIS STATEMENT TO A PROSPECTIVE BUYER OF THE RESIDENTIAL REAL PROPERTY. THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER AND ARE NOT THE REPRESENTATIONS OF THE SELLER'S AGENT.

GENERAL INFORMATION

1. HOW LONG HAVE YOU OWNED THE PROPERTY?

2. HOW LONG HAVE YOU OCCUPIED THE PROPERTY?

3. WHAT IS THE AGE OF THE STRUCTURE OR STRUCTURES? NOTE TO BUYER--IF THE STRUCTURE WAS BUILT BEFORE 1978 YOU ARE ENCOURAGED TO INVESTIGATE FOR THE PRESENCE OF LEAD BASED PAINT.

- 1 4. DOES ANYBODY OTHER THAN YOURSELF HAVE A LEASE, EASEMENT OR ANY  
2 OTHER RIGHT TO USE OR OCCUPY ANY PART OF YOUR PROPERTY OTHER THAN  
3 THOSE STATED IN DOCUMENTS AVAILABLE IN THE PUBLIC RECORD, SUCH AS  
4 RIGHTS TO USE A ROAD OR PATH OR CUT TREES OR CROPS. YES NO UNKN NA  
5 5. DOES ANYBODY ELSE CLAIM TO OWN ANY PART OF YOUR PROPERTY? YES NO  
6 UNKN NA (IF YES, EXPLAIN BELOW)  
7 6. HAS ANYONE DENIED YOU ACCESS TO THE PROPERTY OR MADE A FORMAL LEGAL  
8 CLAIM CHALLENGING YOUR TITLE TO THE PROPERTY? YES NO UNKN NA (IF  
9 YES, EXPLAIN BELOW)  
10 7. ARE THERE ANY FEATURES OF THE PROPERTY SHARED IN COMMON WITH  
11 ADJOINING LAND OWNERS OR A HOMEOWNERS ASSOCIATION, SUCH AS WALLS,  
12 FENCES OR DRIVEWAYS? YES NO UNKN NA (IF YES DESCRIBE BELOW)  
13 8. ARE THERE ANY ELECTRIC OR GAS UTILITY SURCHARGES FOR LINE EXTEN-  
14 SIONS, SPECIAL ASSESSMENTS OR HOMEOWNER OR OTHER ASSOCIATION FEES  
15 THAT APPLY TO THE PROPERTY? YES NO UNKN NA (IF YES, EXPLAIN BELOW)  
16 9. ARE THERE CERTIFICATES OF OCCUPANCY RELATED TO THE PROPERTY? YES  
17 NO UNKN NA (IF NO, EXPLAIN BELOW)

## 18 ENVIRONMENTAL

19 NOTE TO SELLER - IN THIS SECTION, YOU WILL BE ASKED QUESTIONS REGARD-  
20 ING PETROLEUM PRODUCTS AND HAZARDOUS OR TOXIC SUBSTANCES THAT YOU KNOW  
21 TO HAVE BEEN SPILLED, LEAKED OR OTHERWISE BEEN RELEASED ON THE PROPERTY  
22 OR FROM THE PROPERTY ONTO ANY OTHER PROPERTY. PETROLEUM PRODUCTS MAY  
23 INCLUDE, BUT ARE NOT LIMITED TO, GASOLINE, DIESEL FUEL, HOME HEATING  
24 FUEL, AND LUBRICANTS. HAZARDOUS OR TOXIC SUBSTANCES ARE PRODUCTS THAT  
25 COULD POSE SHORT- OR LONG-TERM DANGER TO PERSONAL HEALTH OR THE ENVIRON-  
26 MENT IF THEY ARE NOT PROPERLY DISPOSED OF, APPLIED OR STORED. THESE  
27 INCLUDE, BUT ARE NOT LIMITED TO, FERTILIZERS, PESTICIDES AND INSECTI-  
28 CIDES, PAINT INCLUDING PAINT THINNER, VARNISH REMOVER AND WOOD PRESERVA-  
29 TIVES, TREATED WOOD, CONSTRUCTION MATERIALS SUCH AS ASPHALT AND ROOFING  
30 MATERIALS, ANTIFREEZE AND OTHER AUTOMOTIVE PRODUCTS, BATTERIES, CLEANING  
31 SOLVENTS INCLUDING SEPTIC TANK CLEANERS, HOUSEHOLD CLEANERS AND POOL  
32 CHEMICALS AND PRODUCTS CONTAINING MERCURY AND LEAD.

33 NOTE TO BUYER - IF CONTAMINATION OF THIS PROPERTY FROM PETROLEUM  
34 PRODUCTS AND/OR HAZARDOUS OR TOXIC SUBSTANCES IS A CONCERN TO YOU, YOU  
35 ARE URGED TO CONSIDER SOIL AND GROUNDWATER TESTING OF THIS PROPERTY.

- 36 10. IS ANY OR ALL OF THE PROPERTY LOCATED IN A DESIGNATED FLOODPLAIN?  
37 YES NO UNKN NA (IF YES, EXPLAIN BELOW)  
38 11. IS ANY OR ALL OF THE PROPERTY LOCATED IN A DESIGNATED WETLAND?  
39 YES NO UNKN NA (IF YES, EXPLAIN BELOW)  
40 12. IS THE PROPERTY LOCATED IN AN AGRICULTURAL DISTRICT? YES NO  
41 UNKN NA (IF YES, EXPLAIN BELOW)  
42 13. WAS THE PROPERTY EVER THE SITE OF A LANDFILL? YES NO UNKN NA  
43 (IF YES, EXPLAIN BELOW)  
44 14. ARE THERE OR HAVE THERE EVER BEEN FUEL STORAGE TANKS ABOVE OR  
45 BELOW THE GROUND ON THE PROPERTY? YES NO UNKN NA IF YES, ARE  
46 THEY CURRENTLY IN USE? YES NO UNKN NA LOCATION(S) ARE THEY LEAKING  
47 OR HAVE THEY EVER LEAKED? YES NO UNKN NA (IF YES, EXPLAIN BELOW)  
48 15. IS THERE ASBESTOS IN THE STRUCTURE? YES NO UNKN NA (IF YES, STATE  
49 LOCATION OR LOCATIONS BELOW)  
50 16. IS LEAD PLUMBING PRESENT? YES NO UNKN NA (IF YES, STATE LOCATION  
51 OR LOCATIONS BELOW)  
52 17. HAS A RADON TEST BEEN DONE? YES NO UNKN NA (IF YES, ATTACH A COPY  
53 OF THE REPORT)

- 1 18. HAS MOTOR FUEL, MOTOR OIL, HOME HEATING FUEL, LUBRICATING OIL OR  
2 ANY OTHER PETROLEUM PRODUCT, METHANE GAS, OR ANY HAZARDOUS OR  
3 TOXIC SUBSTANCE SPILLED, LEAKED OR OTHERWISE BEEN RELEASED ON THE  
4 PROPERTY OR FROM THE PROPERTY ONTO ANY OTHER PROPERTY? YES NO  
5 UNKN NA (IF YES, DESCRIBE BELOW)  
6 19. HAS THE PROPERTY BEEN TESTED FOR THE PRESENCE OF MOTOR FUEL, MOTOR  
7 OIL, HOME HEATING FUEL, LUBRICATING OIL, OR ANY OTHER PETROLEUM  
8 PRODUCT, METHANE GAS, OR ANY HAZARDOUS OR TOXIC SUBSTANCE? YES NO  
9 UNKN NA (IF YES, ATTACH REPORT(S))  
10 20. IS OR HAS THE PROPERTY EVER BEEN CONTAMINATED FROM THE USE, STOR-  
11 AGE, OR MANUFACTURE OF METHAMPHETAMINES? YES NO UNKN

## 12 STRUCTURAL

- 13 [20.] 21. IS THERE ANY ROT OR WATER DAMAGE TO THE STRUCTURE OR STRUC-  
14 TURES? YES NO UNKN NA (IF YES, EXPLAIN BELOW)  
15 [21.] 22. IS THERE ANY FIRE OR SMOKE DAMAGE TO THE STRUCTURE OR STRUC-  
16 TURES? YES NO UNKN NA (IF YES, EXPLAIN BELOW)  
17 [22.] 23. IS THERE ANY TERMITE, INSECT, RODENT OR PEST INFESTATION OR  
18 DAMAGE? YES NO UNKN NA (IF YES, EXPLAIN BELOW)  
19 [23.] 24. HAS THE PROPERTY BEEN TESTED FOR TERMITE, INSECT, RODENT OR  
20 PEST INFESTATION OR DAMAGE? YES NO UNKN NA (IF YES, PLEASE ATTACH  
21 REPORT(S))  
22 [24.] 25. WHAT IS THE TYPE OF ROOF/ROOF COVERING (SLATE, ASPHALT,  
23 OTHER.)? ANY KNOWN MATERIAL DEFECTS? HOW OLD IS THE ROOF? IS THERE  
24 A TRANSFERABLE WARRANTEE ON THE ROOF IN EFFECT NOW? YES NO UNKN NA  
25 (IF YES, EXPLAIN BELOW)  
26 [25.] 26. ARE THERE ANY KNOWN MATERIAL DEFECTS IN ANY OF THE FOLLOWING  
27 STRUCTURAL SYSTEMS: FOOTINGS, BEAMS, GIRDERS, LINTELS, COLUMNS OR  
28 PARTITIONS. YES NO UNKN NA (IF YES, EXPLAIN BELOW)

## 29 MECHANICAL SYSTEMS &amp; SERVICES

- 30 [26.] 27. WHAT IS THE WATER SOURCE (CIRCLE ALL THAT APPLY - WELL,  
31 PRIVATE, MUNICIPAL, OTHER)? IF MUNICIPAL, IS IT METERED? YES NO  
32 UNKN NA  
33 [27.] 28. HAS THE WATER QUALITY AND/OR FLOW RATE BEEN TESTED? YES NO  
34 UNKN NA (IF YES, DESCRIBE BELOW)  
35 [28.] 29. WHAT IS THE TYPE OF SEWAGE SYSTEM (CIRCLE ALL THAT APPLY -  
36 PUBLIC SEWER, PRIVATE SEWER, SEPTIC OR CESSPOOL)? IF SEPTIC OR  
37 CESSPOOL, AGE? \_\_\_\_\_ DATE LAST PUMPED? \_\_\_\_\_ FREQUENCY OF  
38 PUMPING? \_\_\_\_\_ ANY KNOWN MATERIAL DEFECTS? YES NO UNKN NA (IF  
39 YES, EXPLAIN BELOW)  
40 [29.] 30. WHO IS YOUR ELECTRIC SERVICE PROVIDER? \_\_\_\_\_ WHAT IS THE  
41 AMPERAGE? \_\_\_\_\_ DOES IT HAVE CIRCUIT BREAKERS OR FUSES?  
42 \_\_\_\_\_ PRIVATE OR PUBLIC POLES? \_\_\_\_\_ ANY KNOWN MATERIAL  
43 DEFECTS? YES NO UNKN NA (IF YES, EXPLAIN BELOW)  
44 [30.] 31. ARE THERE ANY FLOODING, DRAINAGE OR GRADING PROBLEMS THAT  
45 RESULTED IN STANDING WATER ON ANY PORTION OF THE PROPERTY? YES NO  
46 UNKN NA (IF YES, STATE LOCATIONS AND EXPLAIN BELOW)  
47 [31.] 32. DOES THE BASEMENT HAVE SEEPAGE THAT RESULTS IN STANDING  
48 WATER? YES NO UNKN NA (IF YES, EXPLAIN BELOW)

49 ARE THERE ANY KNOWN MATERIAL DEFECTS IN ANY OF THE FOLLOWING (IF YES,  
50 EXPLAIN BELOW. USE ADDITIONAL SHEETS IF NECESSARY.):

- |    |                            |     |    |      |    |
|----|----------------------------|-----|----|------|----|
| 51 | [32.] 33. PLUMBING SYSTEM? | YES | NO | UNKN | NA |
| 52 | [33.] 34. SECURITY SYSTEM? | YES | NO | UNKN | NA |

1	[34.]	35. CARBON MONOXIDE DETECTOR?	YES	NO	UNKN	NA
2	[35.]	36. SMOKE DETECTOR?	YES	NO	UNKN	NA
3	[36.]	37. FIRE SPRINKLER SYSTEM?	YES	NO	UNKN	NA
4	[37.]	38. SUMP PUMP?	YES	NO	UNKN	NA
5	[38.]	39. FOUNDATION/SLAB?	YES	NO	UNKN	NA
6	[39.]	40. INTERIOR WALLS/CEILINGS?	YES	NO	UNKN	NA
7	[40.]	41. EXTERIOR WALLS OR SIDING?	YES	NO	UNKN	NA
8	[41.]	42. FLOORS?	YES	NO	UNKN	NA
9	[42.]	43. CHIMNEY/FIREPLACE OR STOVE?	YES	NO	UNKN	NA
10	[43.]	44. PATIO/DECK?	YES	NO	UNKN	NA
11	[44.]	45. DRIVEWAY?	YES	NO	UNKN	NA
12	[45.]	46. AIR CONDITIONER?	YES	NO	UNKN	NA
13	[46.]	47. HEATING SYSTEM?	YES	NO	UNKN	NA
14	[47.]	48. HOT WATER HEATER?	YES	NO	UNKN	NA
15	[48.]	49. THE PROPERTY IS LOCATED IN THE				
16		FOLLOWING SCHOOL DISTRICT			UNKN	

17 NOTE: BUYER IS ENCOURAGED TO CHECK PUBLIC RECORDS CONCERNING THE PROP-  
18 ERTY (E.G. TAX RECORDS AND WETLAND AND FLOOD PLAIN MAPS)  
19 THE SELLER SHOULD USE THIS AREA TO FURTHER EXPLAIN ANY ITEM ABOVE. IF  
20 NECESSARY, ATTACH ADDITIONAL PAGES AND INDICATE HERE THE NUMBER OF ADDI-  
21 TIONAL PAGES ATTACHED.

22 \_\_\_\_\_  
23 \_\_\_\_\_  
24 \_\_\_\_\_  
25 \_\_\_\_\_

26 SELLER'S CERTIFICATION: SELLER CERTIFIES THAT THE INFORMATION IN THIS  
27 PROPERTY CONDITION DISCLOSURE STATEMENT IS TRUE AND COMPLETE TO THE  
28 SELLER'S ACTUAL KNOWLEDGE AS OF THE DATE SIGNED BY THE SELLER. IF A  
29 SELLER OF RESIDENTIAL REAL PROPERTY ACQUIRES KNOWLEDGE WHICH RENDERS  
30 MATERIALLY INACCURATE A PROPERTY CONDITION DISCLOSURE STATEMENT PROVIDED  
31 PREVIOUSLY, THE SELLER SHALL DELIVER A REVISED PROPERTY CONDITION  
32 DISCLOSURE STATEMENT TO THE BUYER AS SOON AS PRACTICABLE. IN NO EVENT,  
33 HOWEVER, SHALL A SELLER BE REQUIRED TO PROVIDE A REVISED PROPERTY CONDI-  
34 TION DISCLOSURE STATEMENT AFTER THE TRANSFER OF TITLE FROM THE SELLER TO  
35 THE BUYER OR OCCUPANCY BY THE BUYER, WHICHEVER IS EARLIER.

36 SELLER \_\_\_\_\_ DATE \_\_\_\_\_  
37 SELLER \_\_\_\_\_ DATE \_\_\_\_\_

38 BUYER'S ACKNOWLEDGMENT: BUYER ACKNOWLEDGES RECEIPT OF A COPY OF THIS  
39 STATEMENT AND BUYER UNDERSTANDS THAT THIS INFORMATION IS A STATEMENT OF  
40 CERTAIN CONDITIONS AND INFORMATION CONCERNING THE PROPERTY KNOWN TO THE  
41 SELLER. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER OR SELLER'S AGENT  
42 AND IS NOT A SUBSTITUTE FOR ANY HOME, PEST, RADON OR OTHER INSPECTIONS  
43 OR TESTING OF THE PROPERTY OR INSPECTION OF THE PUBLIC RECORDS.

44 BUYER \_\_\_\_\_ DATE \_\_\_\_\_  
45 BUYER \_\_\_\_\_ DATE \_\_\_\_\_

46 S 5. This act shall take effect immediately.